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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,016	01/21/2004	Takako Hirose	32911US1	3995
116 7590 04/09/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER HU, JINSONG	
			ART UNIT 2154	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,016	<b>Applicant(s)</b> HIROSE ET AL.	
	<b>Examiner</b> Jinsong Hu	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-6 are presented for examination. Claim 1 has been amended. Claims 2-6 are newly added claims.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly understood.

i. As per claim 1, applicant first claimed "a client system" requesting to deliver a message from a server unit in compliance with a notification from the server unit, then applicant claimed "the client system" informing "the server unit" of a succeeding message is present, it is uncertain how the client system know the succeeding message exist on the server unit and what is the relationship between "the succeeding message" and "the message" [i.e., they are the different portions of the same message or they are totally different messages].

ii. As per claim 3, it is uncertain how can the server unit delete a message first and then transmit the same message again when it received request from client, i.e., where does the copy of the message come from.

Corrections are required.

***Double Patenting***

3. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 09/622,656 (hereinafter as 656'). Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claimed a client system requesting delivering the message stored on the server system when the client system received a notification from the server system, and it is obvious to a person in the art that "notification" in this application is the same meaning of "a message start notification" in application 656'.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 6,314,454), in view of Bulfer et al. (US 6,175,858).

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6. As per claim 1, Wang teaches the invention substantially as claimed including a message delivery system having a client system acquiring a delivery message from a server unit by requesting to transmit the delivery message in the server unit in compliance with a notification from the server unit [col. 6, lines 45-55],

wherein the client system includes a received message storing means for storing delivery message information received from the server unit, and a process instructing request for the delivery message whose reception is completed when reception of the delivery message from the server unit is completed [col. 6, lines 55-58]; and

wherein an instruction requesting section for requesting the server unit includes a delivery message storing means for storing the delivery message to be transmitted to the client system, and message processing means for transmitting a succeeding message stored in the delivery message storing means to the client system in compliance with a request from the client system [col. 6, lines 45-55] and then processing the delivery message whose reception is completed [col. 6, lines 55-60].

7. Wang does not specifically teach the step of informing the server unit by the client for a succeeding message acquiring request if a succeeding message is present. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a succeeding message request step in Wang's system because doing so would bring the convenience to user by allowing the user request a expect coming message instead of waiting a notification from the server. One

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of ordinary skill in the art would have been motivated to modify Wang's system with the request step to improve the functionality of the system.

8. As per claim 2, Wang teaches the message processing means deletes the delivery message, which is informed by the client system and whose reception is completed, from the delivery message storing means in compliance with an instruction from the client system [col. 6, lines 55-60].

9. As per claim 3, Wang teaches the server unit holds the delivery message stored in the delivery message storing means until its deletion is instructed by the client system, and then transmits the same delivery message once again when it receives an acquiring request from the client system [col. 7, lines 25-26].

10. As per claim 4, Wang teaches the server unit further includes a processed message storing means for storing the messages delivered to the client system, and wherein, by instructing to move from the delivery message storing means of the server unit as the process for the delivery message whose reception is completed, the message processing means moves the delivery message, which is informed by the client system and whose reception is completed, from the delivery message storing means to the processed message storing means in compliance with an instruction from the client system [col. 7, lines 25-26 & 31-39].

11. As per claim 5, Wang teaches the server unit holds the delivery message stored in the delivery message storing means until its movement is instructed by the client system, and then transmits the same delivery message once again when it receives an acquiring request from the client system [col. 7, lines 25-26].

12. As per claim 6, Wang teaches a message instruction requesting means for informing the server unit of only a process instruction request for the delivery message whose reception is completed when there is no succeeding message [col. 7, lines 23-25].

### ***Conclusion***

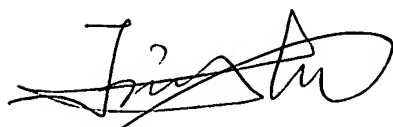
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jinsong Hu', with a stylized, cursive script.

Jinsong Hu

March 30, 2007